## FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners become request, pursuant to the Petition for Zoning Variance, a variance from Sections 402.1 and 301.1 of the Baltimore County Moning Regulations (B.C.Z.R.) to allow a lot width for a 2 apartment use of 63 ft. in lieu of the required 80 ft. and to allow a side yard setback of 10 ft. and a sum of side yard setbacks of 26 ft. in lieu of the required 15 ft. and 30 ft. (open projection on one side), respectively, as more particularly described on Petitioners' Exhibit No. 1.

The Petitioners, by Evelyn M. Bulge, appeared, testified and were represented by John O. Hennegan, Esquire. Also appearing on behalf of the Petition were Robert and Barbara J. Underwood and Donald W. Brollier. Appearing and testitying as Protestants were George and Ellen Corbett.

Postimony indicated that the subject property, known as 127 American Avenue, consists of .303 acres +/-, zoned D.R.5.5 and is currently improved with the subject 2-1/2 story frame dwelling and detached garage, as Indicated on Petitioners' Exhibit No. 1.

Testimony indicated that the Petitioners, who to mother and daughter, reside in the subject dwelling along with Mrs. Buige's boyfriend and - her mother. The Petitioner's testimony indicated that they have no intentions or desire to rent the subject property and purchased it specifically for use as their home.

Testimeny further indicated that the Petitioners would suffer an undue hardship and practical difficulty should the requested relief be

Donald Brollier testified that he attended the real estate settlement for the subject property and indicated that the Petitioners were given the impression that the subject property could be utilized as proposed because they were all "family".

Ellen Corbett, a Protestant, testified and gave a brief history of the subject property. Mrs. Corbett testified that she was primarily concorned with the subject property being utilized as rental units and, in view of such concern, opposes the requested relief.

Mr. George Corbett, a Protestant, essentially concurs with the testimony of his wife. Mr. Corbett also added that the bathroom and bedroom were added on the west side of the home in addition to the living room being extended in 1987.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

 whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the variances were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not be detrimental to the public health, safety and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County his 16 day of 17. 1991 that, pursuant to Fetition for Zoning Variance, a variance from Section 402.1 and 301.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to allow a lot width for a 2 apartment use of 63 ft. in lieu of the required 80 ft. and to allow a side yard setback of 10 ft., and a sum of side yard setbacks of 26 ft. in lieu of the required 15 ft. and 30 ft. (open projection on one side), respectively, in accordance with Petitioner's Exhibit No. 1, is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

> 1. The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever

reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original

2. The Petitioners shall not allow, cause or permit the subject home to be rented and/or leased to non "family" person(s), as that term is defined in Section 101 of the B.C.Z.R.

for Baltimore County

JRH/mmn cc: Peoples Counsel

Baltimore County Government office of Zoung Administration and Development Management Office of Planning & Zoning

COPY

French Lights

88 4454

August 26, 1991 DATE: 7 . 25 . 91

H1 West Chesapeake Avenue

Towson, MD 2120 r

Rlanch M. Bartlett and Evelyn M. Buige 127 American Avenue Baltimore, Maryland 21227

Case Number: 91-4/3-A S/S American Avenue, 760'(+/-) SW of Ridge Avenue 127 American Avenue 13th Election District - 1st Councilmanic Petitioner(s): Blanche M. Bartlett and Evelyn M. Buige HEARINGS THURSDAY ... AUGUSD 15 ... 9:00 am. ... HEARING: Friday, September 6, 1991, 9 am Baltimore County Government Office of Zoning Administration and Development Management confice of Planning & Zening

MULY 12, 1991

111 West Chesapeake Avenue

Towson MD 21203

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 91-473-A S/S American Avenue, 760'(+/-) SW of Ridge Avenue 127 American Avenue 13th Election District - 1st Councilmanic Petitioner(s): Blanche M. Bartlett and Evelyn M. Buige HEARING: FRIDAY, SEPTEMBER 6, 1991 at 9:00 a.m.

Variance to allow a lot width, for a 2 apartment use, of 63 ft. in lieu of the required 80 ft.; to allow a side yard setback of 10 ft. and a sum of side yard setbacks of 26 ft. in lieu of the required 15 ft. and 30 ft. (open projection of 1 side) respectively.

Baltimore County

Zoning Commissioner of

cc: Bartlett and Buige John (). Hennegan, Esq.

Baltimore County Government Office of Zorong Administration and David spinieri Management -On selet Planting & Zemng

ouly 5, 1991

311 rostern Boulevard - Housek, Maryland - 21221

- Romadka, Contram & Hennegan, P.A.

Case Number(:): 91-4/3-A 27 American Avenue -Petitioner(s): Blanche M. Bartlett and Evelyn M. Buige

Dear Mr. Hennegan

John J. Hennegan, Esq.

West Cheshings New Year

4 Section, MD 2, 2 (4)

This to acknowledge receipt of your June 26, 1991 correspondence requesting postponement of the above captioned matter. Accordingly, the case has been pulled from August 15, 1991 docket.

Notice of the new hearing date will be forwarded to you shortly.

Very truly yours, G. G. Stephens (301) 887-3391

Blanche M. Barlett and Evelyn M. Buige

LAW FIRM

Romadka, Gontrum & Hennegan, 7! A. 814 EASTERN BOULEVARD ESSEX, MARYLAND 21221 TELEPHONE (301) 686-8274 FAX # 686-0118

ROBERT J. ROMADKA JOHN B. GONTRUM JOHN O. HENNEGAN DONALD R. SHEFFY NANCY E. DWYER\* SHARON R. GAMBLE MARY H. BUCHANAN \*Also admitted in Florida

61

June 26, 1991

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204

Attention: J. Robert Haines

RE: Blanche M. Bartlett and Evelyn M. Buige Case No: 91-473-A Dear Mr. Haines:

I have been advised that a hearing has been scheduled for

August 15, 1991 at 9:00 a.m. in regard to the above-captioned matter. I am currently scheduled to be out-of-town that week. Please reschedule this matter and notify my office of a new date and time.

Thank you for your assistance in this matter.

Very truly yours, John O. Hennegan

JOH/cfh

cc: Blanche Bartlett



## Petition for Variance

to the Zoning Commissioner of Baltimore County The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a 30...

Variance from Section \_\_\_402.1, \_\_ to allow a lot width, for a 2 apartment use, of -- 63' in lieu of the required 80'., and to allow a side yard setback of 10' and a sum of side yard setbacks of 26' in lieu of the required 15' & 30' (open

projection on 1 side) respectfully. of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

Baltimore County adopted pursuant to the Zoning Law For Baltimore County,

\_<u>\$w\$</u> "See attached sheet" Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of

1/We do solemnly declare and affirm; under the penalties of perjury, that live are the legal owner(s) of the property which is the subject of this Petition. Contract Purchaser/Lessee: (Type or Print Name) Signature Evelyn M. Buige City and State Attorney for Petitioner: 127 American Ave 247-2740 John Oftennegen (Type of Print Name)

Attorney's Telephone No.: Leg 6-9274 ORDER RECEIVED FOR FILING

814 Eastern Ave

June 7, 1991

Baltimore County Moning Board

for two apartments in one dwelling.

FORMER OWNERS: Robert Underwood and Barbara Underwood

CUBRENT OWNLES: Blanche M. Bartlett and Evelyn M. Buige

This is a request for variance concerning the Baltimore County Zoning, which

The following are reasons to be considered for variance because of hardship:

1. At settlement on December 20, 1990, the acting attorny, Bruce kent of 5517 Oregon Avenue, Arbutus, Maryland 21227, advised the buyers

of 127 American Avenue, that they would have no problems with the

Faltimore County Loning Board because they are buying the house jointly and as one family unit. Mr. Kent was acting attorny for the Underwood's and the joint buyer's, M's Eartlett and M's Buige.

Witnesses to this advise were Donald Brolliar, Morgan Kun Farm, Route 32, Sykesville, Earyland; Robert and Barbara Underwood, Brohawn Road, Ealtimore, Maryland 21230 (former owners).

2. Mother and daughter, M's Bartlett and M's Buige, are both divorced, and to avoid economic hardship invested their assets in the 127 American Avenue, house in order to share it as a one family unit.

3. The property consists of 63 feet of frontage and the zoning law requires 80 feet of frontage in order to approve two apartments in one unit. The paragraph above explains that the total amount of square feet (13,000) is more than the required amount of 10,000 square feet the zoning board requires for two apartments in one

Be advised that the 127 American Avenue, house will not be used as a rental property, creating additional traffic and noise. M's Evenly Buige, joint owner, lives and will continue to live in the up stairs apartment.

requires 80 feet of footage in order to have two apartments within one

The 127 American Avenue address in Baltimore County has 13,000 square feet of property, which is more than the 10,000 square feet required

Essex MD 2/22/

Name, address and phone number of legal owner, contract purchaser or representative to be contacted AVAILABLE FOR HEARING MON./TUES./WED. - NEXT TWO MONTHS OTHER.

RE: 127 American Avenue

Baltimore, Maryland 21227

CASE NUMBER 9-473-A

Zoning Description.

Beginning at a point on the South side of American Ave. at a point, 760 tt. Southeast

of Ridge Ave. thence running east 63 th thence

thence south 209 ft, thence 63 ft. west thence

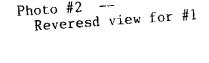
209 ft. to the point of beginning. Also
Known as 127 American Ave. & located in
the 13th Election District of Baltimore county

PETITIONER'S EXHIBIT#

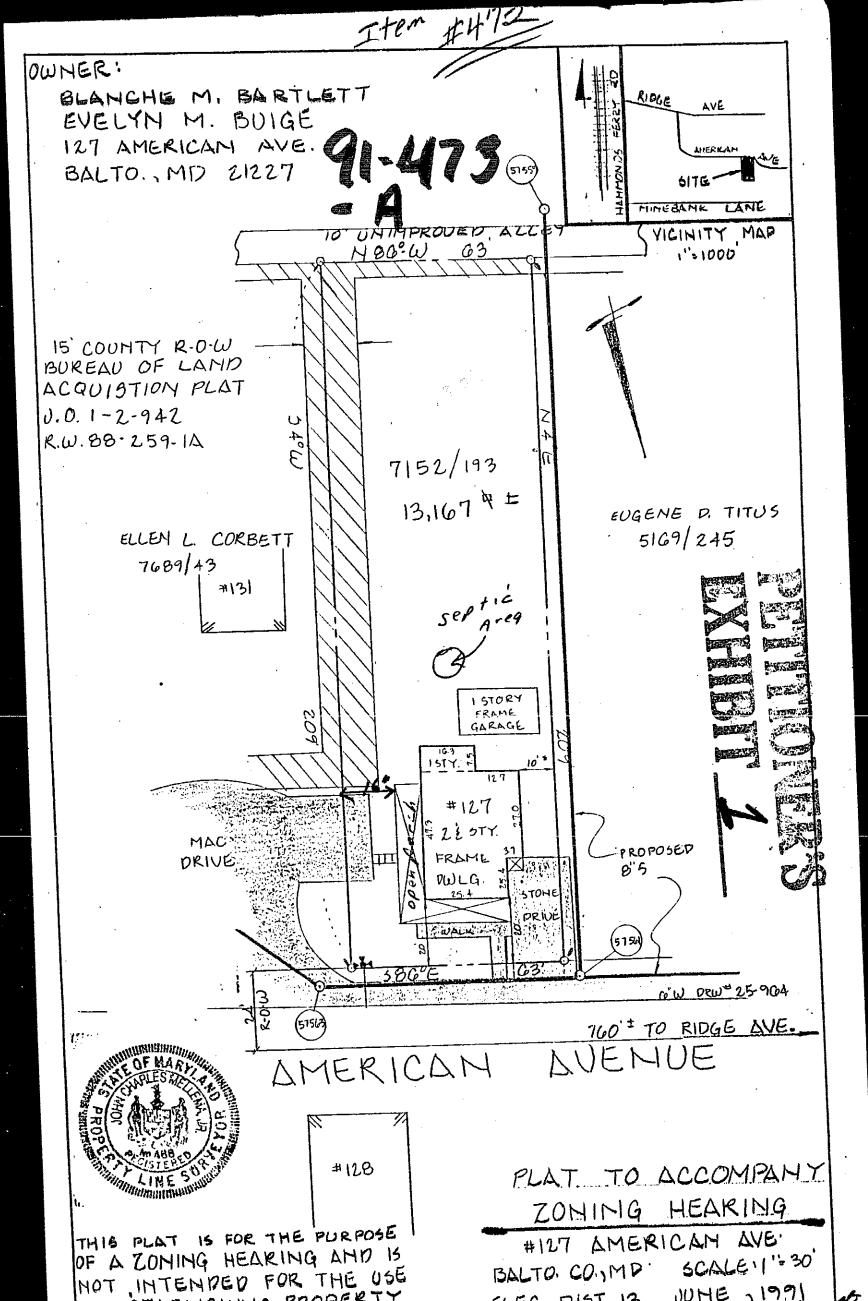


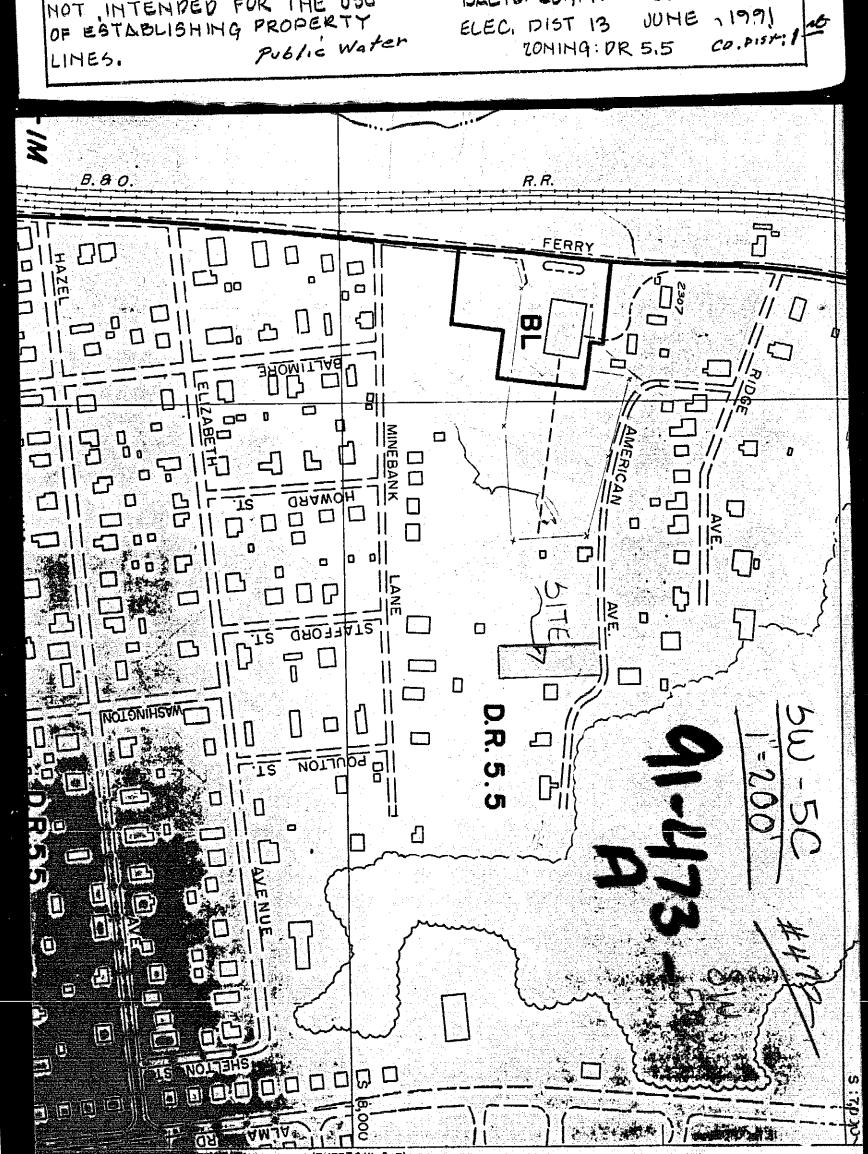
Photo #1 --View from American Rd.

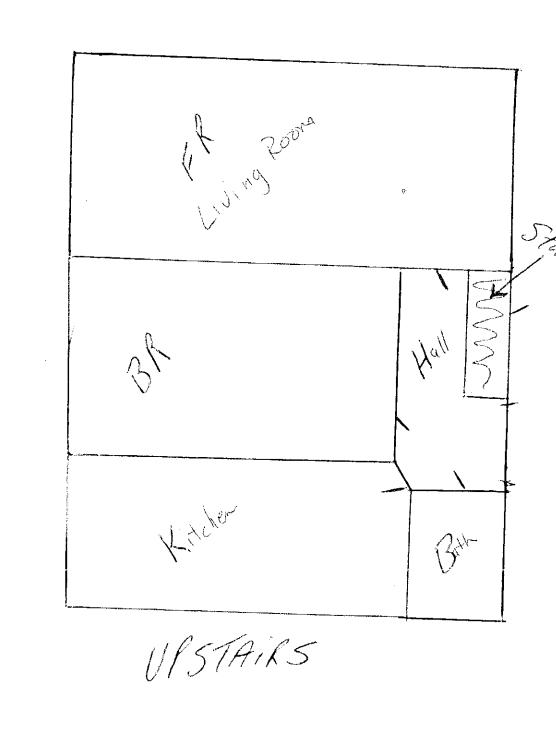






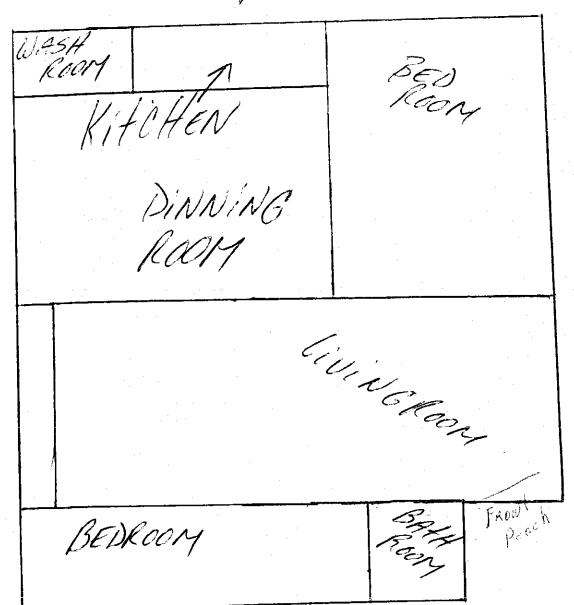






91-473-A

581275 NMOQ



**Baltimore County Government** Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204

887-3353

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 91-473-A S/S American Avanue, 760'(+/-) SW of Ridge Avenue 127 American Avenue 13th Election District - 1st Councilmanic Petitioner(s): Blanche M. Bartlett and Evelyn M. Buige HEARING: THURSDAY, AUGUST 15, 1991 at 9:00 a.m.

Variance to allow a lot width, for a 2 apartment use, of 63 ft. in lieu of the required 80 ft.; to allow a side yard setback of 10 ft. and a sum of side yard setbacks of 26 ft. in lieu of the required 15 ft. and 30 ft. (open projection of 1 side) respectively.

Petitioner's Bign - in

2507 Behan Ove. 1834 SYKSVILLE FOD. SIMESUILE, ALD. 21784

127 American Aue 21227

127 American Ane 21227

J. Robert Springe

Blanche M. Bartlett

cc: Bartlett and Baige John O. Hennegen, Esq.

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

COPY

JUNE 24, 1991

111 West Chesapeake Avenue

Towson, MD 21204

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 91-473-A S/S American Avenue, 760'(+/-) SW of Ridge Avenue 127 American Avenue 13th Election District - 1st Councilmanic Petitioner(s): Blanche M. Bertlett and Evelyn M. Buige HEARING: THURSDAY, ADGUST 15, 1991 at 9:00 a.m.

Variance to allow a lot width, for a 2 apartment use, of 63 ft. in lieu of the required 80 ft.; to allow a side yard setback of 10 ft. end a sum of side yard setbacks of 26 ft. in lieu of the required 15 ft. and 30 ft. (open projection of 1 side) respectively.

**Zoning Commissioner of** Baltimore County

LAST NAME OF OWNER: BAFTLETT

91-473-A

.WEER-OFFICE CORPESPONDENCE

10: James E. Dyer DATE: June 23, 1991 Zoning Supervisor

FPCM: James H. Thompson Zoning Enforcement Coordinator

RE: Hem No. 472 (if known) Petitioner: Blanche M. Barlett/Evelyn M. Buige (if known)

VICLATION CASE # C-91-1754

LOCATION OF VIOLATION 127 American Avenue

DEFENDANT Blanche M. Barlett and Everys M. Buide

ADDRESS 127 American Avenue Baltimore, MD 21227

Please be advised that the aforement, oned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following persons:

ADDRESS

#Ellen Corbett

128 American Avenue Baltimore, MD 21227

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Zoning Enforcement Coordinator, so that the appropriate action may be taken relative to the violation case.

cc: Gwen Stephens Development Control

# Copy of Hearing Notice Mailed 6/26/91.



CERTIFICATE OF PUBLICATION

published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of \_\_\_\_ successive weeks, the first publication appearing on  $\frac{1}{8}$ ,  $\frac{199}{19}$ 

5. Zehe Orlon





**CERTIFICATE OF PUBLICATION** 

THIS IS TO CERTIFY, that the annexed advertisement was publish

11. 2 V 1 . 17 <del>1</del> V 1 V 1 V 1 V 2 V 3

NAME

Date of Posting August 13-91 Frontioner: Blanche In Bartlett & Crelyn M Bugs

[coexition of property: S/S of American arenus, 760' ± SW of

Pring arenus (127 American arenus)

Location of Signe Clas front of 127 American arenus



Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 2120 (

July 19, 1991

John O. Hennegan, Esquire 814 Eastern Avenue Essex, MD 21221

> RE: Item No. 472, Case No. 91-473-A Petitioner: Blanche M. Bartlett, et al Petition for Zoning Variance

88 1 3353

Dear Mr. Hennegan:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Ms. Blanche Bartlett 127 American Avenue Baltimre, MD 21227

Baltimore County Government Zoning Commissioner Office of Planning and Zoning

111 West Chesapeake Avenue Towson, MD 21204

887-3353

September 12, 1991

John O. Hennegan, Esquire 814 Eastern Avenue Baltimore, Maryland 21221

> RE: Petition for Zoning Variance Case No. 91-473-A Blanche A. Bartlett, et al

Dear Mr. Hennegan:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been granted in part, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

cc: Peoples Counsel cc: Petitioners cc: Protestants

Your petition has been received and accepted for filing this

Baltimore County Government

Office of Zoning Administration

and Development Management

office of Planning & Zoning

19th day of June, 1991.

I. West Chesapeake Avenue

1. ays. on MD 2120 -

55 3353

Zoning Plans Advisory Committee

Received By:

Petitioner: Blanche M. Bartlett, et al Petitioner's Attorney: John O. Hennegan BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

J. Robert Haines Zoning Commissioner DATE: July 10, 1991

Pat Keller, Deputy Director Office of Planning and Zoning

SUBJECT: Blanche M. Bartlett, Item No. 472

Should the petitioner's request be granted, staff recommends that the use of the home as a two-apartment dwelling shall cease upon permanent vacation of the premises by either Ms. Bartlett or Ms.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JI./cmm

ITEM472/ZAC1

BUREAU OF TRAFFIC ENGINEERING DEPARTMENT OF PUBLIC WORKS BALTIMORE COUNTY, MARYLAND

DATE: June 25, 1991

Mr. J. Robert Haines Zoning Commissioner

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: June 18, 1991

Rahee J. Famili

This office has no comments for items number 468, 470, 472 and 473.

RJF/lvd

Baltimore County Government Fire Department

700 East Joppa Road Suite 901 Towson, MD 2120 ( 5500

JUNE 18, 1991

1301 (SS 1 (SS))

J. Pobert Haines Zoning Commissioner Office of Planning and Zoning Baltimore County Office Building Towson, MD 21204

PF: Property Owner: BLANCHE M. BARTLETT AND EVELYN M. BUIEGE

> #127 AMERICAN AVENUE Location:

Item No.: 472 Zoning Agenda: JUNE 18, 1991

Gentlemen:

Pursuant to your request, the referenced property has been curveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 161 "Dife Safety Code", 1988 edition prior to occupancy.

PRITTING Cutt los Kathely 6.18-91 Approved Fire Prevention Bureau Special Inspection Division

JK/KEK

BALTIMORE COUNTY, MARYLAND INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: June 19, 1991 FROM: Robert W. Bowling, P.E.

Zoning Advisory Committee Meeting for June 18, 1991

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 468, 470, 473 and 475.

For Items 458 and 460 the previous County Review Group comments still apply.

For Item 379 (#91-405-SPH), the site must be submitted through the minor subdivision process for review and

For Item 472, as of this date, the proposed 8-inch sanitary sewer has not gone to contract.

Developers Engineering

RWB:s